



CITY OF CARLSBAD – AGENDA BILL

9

AB#	18,746	PROPOSITION D-REPORT ON LEGAL AND FISCAL IMPACTS	DEPT. HEAD
MTG.	9/26/06		CITY ATTY.
DEPT.	CD		CITY MGR.

RECOMMENDED ACTION:

That the City Council **RECEIVE** the Report on the Legal and Fiscal Impacts of Proposition D.

ITEM EXPLANATION:

This item is being presented to the City Council for informational purposes only and no action is required except to receive the Report.

On July 18, 2006, the City Council received and reviewed a Report under Elections Code Section 9212 (9212 Report) on the legal and fiscal implications of Proposition E, the “Save the Strawberry and Flower Growing Fields Act of 2006”. The City Council subsequently voted to place an alternative measure on the November ballot, Proposition D, entitled “Preserve the Flower and Strawberry Fields and Save Carlsbad Taxpayers’ Money”. In addition, the City Council directed staff to prepare a report, similar to a 9212 Report, regarding the legal and fiscal impacts of Proposition D as revised to reflect all the recommendations of the Citizens’ Committee.

The Report on the Legal and Fiscal Impacts of Proposition D is attached as Exhibit 1 to this Agenda Bill. The Report was prepared by the same independent consultants that assisted in the preparation of the 9212 Report on Proposition E (the Rosenow-Spevacek Group and the law firm of McDougal, Love, Eckis, Smith, Boehmer and Foley).

The conclusions of the Report indicate that Proposition D presents little, if any, legal issues or risk to the City and that except for minor funding relating to implementation (e.g. the community planning process), there are no fiscal implications to the citizens associated with Proposition D.

FISCAL IMPACT:

Preparation of the Report was funded out of the account previously authorized by the City Council for legal and fiscal consulting services associated with the ballot measures and information provided to the Citizens’ Committee to Study the Flower Fields and the Strawberry Fields Area. No new or additional funds were needed.

DEPARTMENT CONTACT: Sandra Holder 760-602-2710 shold@ci.carlsbad.ca.us

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COUNCIL ACTION:	APPROVED	<input type="checkbox"/>	CONTINUED TO DATE SPECIFIC	<input type="checkbox"/>
	DENIED	<input type="checkbox"/>	CONTINUED TO DATE UNKNOWN	<input type="checkbox"/>
	CONTINUED	<input type="checkbox"/>	RETURNED TO STAFF	<input type="checkbox"/>
	WITHDRAWN	<input type="checkbox"/>	OTHER – SEE MINUTES	<input type="checkbox"/>
	AMENDED	<input type="checkbox"/>		

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ENVIRONMENTAL IMPACT:

This item does not qualify as a project under the California Environmental Quality Act (CEQA Section 15378) and, therefore, no environmental review is required.

EXHIBITS:

1. Report on the Legal and Fiscal Impacts of Proposition D dated September 17, 2006.

Exhibit “1”

September 17, 2006

**ANALYSIS OF PROPOSITION "D":
"PRESERVE THE FLOWER AND STRAWBERRY FIELDS
AND SAVE CARLSBAD TAXPAYERS' MONEY" MEASURE**

The purpose of this report is to respond to the City's request to study various impacts of the "Preserve the Flower and Strawberry Fields and Save Carlsbad Taxpayers' Money Measure (hereinafter referred to as Proposition "D" or "Measure"). This Report follows the same format as a Report requested under Elections Code Section 9212 for Citizen-sponsored Initiatives.

Previously, the City Council accepted a 9212 Report regarding a Citizen-sponsored Initiative that has been placed on the November, 2006 Ballot along with this Measure. Both Measures cover the same general subject matter, but not the identical properties. The "Save the Strawberry and Flower Growing Fields Act of 2006" (hereinafter referred to as "Proposition "E") restricts land uses in the same general land area as Proposition "D". The 9212 report for Proposition "E" was ordered by the City Council at its meeting of June 20, 2006.¹ That report was submitted to the Council and accepted on July 18, 2006.

¹ Election Code 9212 states as follows: 9212. (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed Measure to any city agency or agencies for a report on any or all of the following: (1) Its fiscal impact. (2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code. (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs. (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the Measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses. (5) Its impact on the community's ability to attract and retain business and employment. (6) Its impact on the uses of vacant parcels of land. (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization. (8) Any other matters the legislative body requests to be in the report. (b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

There are seven specific requirements for a 9212 Report and this report addresses the same topics as a 9212 Report. This Report will include attachments from various sources. The primary source will be a report by the Rosenow Spevacek Group Inc ("RSG") regarding various fiscal impacts. It also discusses certain legal impacts of the Proposition that were discussed by the Council-appointed Citizen's Committee.

The full text of Proposition "D" is attached to this report as Attachment "1".

I. Procedural Concerns

A. Proposition "D" General Plan Consistency Issues

Since this Proposition is primarily a General Plan Amendment, it must follow general rules applicable to other Land Use measures. Land Use Measures are subject to certain statutory and judicially interpreted rules of construction. They must be:

1. Consistent with the General Plan;
2. If they amend the General Plan, they must not create an internal inconsistency within the various elements of the General Plan;
3. They must not preempt State regulatory authority held by the Coastal Commission, Public Utilities Commission, California Energy Commission or other applicable state bodies²;
4. They cannot direct future legislative discretion of the City Council; and
5. They must comply with many of the same rules governing City Council except basic procedural rules applicable only in a legislative setting.

This Proposition can only be implemented to the extent it meets the requirements listed above. Proposition "D" amends the Land Use Element of the General Plan in three specific sections. It also amends the Open Space and Conservation Element of the General Plan. These amendments are consistent with the General Plan and its various elements as described below.

Consistency with the Carlsbad General Plan

The proposition would reaffirm and permanently lock into place the existing General Plan designation of Open Space (OS) on all the properties affected by the proposition. The proposition would include amendments to the existing text of the Land Use Element of the

² The State Agencies with regulatory authority would include the California Coastal Commission (Coastal Act), California Energy Commission (Power Plant Siting and Regulatory Issues), Public Utilities Commission (Utility Company regulations, including use of right-of-ways), Department of Pesticide Regulation (Agricultural use of Pesticides), Department of Fish & Game (Plant and wildlife issues) and the San Diego Regional Water Quality Control Board (Stormwater runoff and pollution control). Other agencies may have regulatory authority, but these Agencies are the ones that would be the most directly involved.

General Plan to ensure that the area is preserved for Open Space uses and that farming and agricultural uses are allowed to continue for as long as viable by establishing the area for Special Planning Consideration as the "Cannon Road Open Space, Farming and Public Use Corridor". The proposition contains special goals, objectives, implementing policies and action programs to ensure the continued use of the area for Open Space consistent with the existing land use designation of the General Plan. The proposition also amends the Land Use Element by adding a policy to strengthen the protection of the existing Flower Fields. The proposition reaffirms the existing land use policies contained in the General Plan to support and encourage agriculture in the city and in this area for as long as it remains economically viable. The proposition would, however, make agricultural uses a Category 1 Priority for future planning in the area. If, in the future, farming and agricultural uses are no longer viable, the proposition would only allow other, specified Open Space uses. The proposition is, therefore, consistent with the City's existing General Plan.

Section II (D) (8), added to the Land Use Element, reads as follows:

8. The Cannon Road Open Space, Farming and Public Use Corridor. The area along the Cannon Road corridor east of the Interstate 5 freeway presently consist primarily of open space and existing farming operations including the Flower Fields located to the south of Cannon Road and the existing Strawberry Fields located to the north of Cannon Road. The open space areas on the north side of Cannon Road provide spectacular views of the Agua Hedionda Lagoon and contain environmentally sensitive natural habitat areas that need to be permanently protected.

The existing Flower Fields and the Strawberry Fields as open space uses provide for productive use of portions of the area that enhance the cultural heritage and history of the City. Although the Flower Fields are already protected and restricted to agricultural use, the City shall utilize all existing programs and land use protections and explore other possible new mechanisms to keep the Flower Fields in production. The City shall also ensure that other farming uses such as the existing Strawberry Fields are allowed to continue as long as it is economically viable for the landowner to do so.

The area is recognized for its significant open space opportunities; however, the area lacks adequate public access and public use areas so that the community can enjoy the open space opportunities provided in this area to their fullest potential. An interconnecting public trail through the area preferably linking the south shore of Agua Hedionda Lagoon with the existing Flower Fields could greatly enhance public access in the area. In addition, park and recreation uses that allow public gathering spaces and are compatible with other open space uses could offer opportunities for more community use and enjoyment of the area.

Residential use is not appropriate for the area. Commercial and industrial-type uses other than those normally associated with farming operations are also not appropriate.

The Cannon Road Open Space, Farming and Public Use Corridor presents a unique opportunity for the City to create a sustainable, community-oriented open space area that balances social, economic and environmental values important to the community. (Proposition "D", Section 3.1.)

This provision limits the uses in the lands covered by the Proposition to "Open Space" uses of which Agriculture is considered an Open Space use. While there are three other amendments to the General Plan found in the Proposition, this section captures the essence of the intent of the Measure. It specifically prohibits commercial and industrial uses except those normally associated with farming operations. It also creates a mechanism to allow for a transition from "Agricultural" to "Open Space" uses if the AG use is no longer economically viable. The "Open Space" uses would have to be limited to the types of uses consistent with the Proposition and the O-S Open Space Zone found in Chapter 21.33 of the Carlsbad Municipal Code although the Proposition creates a follow-up public process to determine what Open Space uses allowed by the O-S Zone are most appropriate for the lands covered by the Proposition.

The Land Use Element is also amended to encourage the use of other City programs and land use protections to keep the existing Flower Fields in permanent production. This provision sets a General Plan policy that guides future City policies to make the preservation of the Flower Fields a City priority.

B. Analysis of Procedural Sections of Proposition "D" Purpose

The Proposition contains various procedural sections that amend the General Plan and zoning ordinance of the City of Carlsbad. Under Section 2 of the Proposition, the purpose and certain findings are discussed. Under 2.1, details are provided relating to the stated purpose behind the Proposition. This section is intended to assist those who must interpret the Proposition as to its underlying reasons for adoption. The main purpose is stated as follows:

The purpose of this measure is to ensure that flower fields and strawberry fields area located along the Cannon Road corridor east of Interstate 5 freeway is preserved as open space and that farming is allowed to continue as long as it is viable. (Proposition "D", Section 2.1.)

Any doubts regarding the interpretation of the Proposition are resolved by reviewing the purpose section. The purpose section requires that the property be preserved in open space on a permanent basis. Farming is to be allowed to continue as long as it is economically viable.

Section 2.2 describes the location of the properties subject to the Proposition. Those properties are further described in a map that is attached to the Proposition. Specific descriptions of the property are contained in this report under III.

In addition to the purpose section, a findings section is found in Section 2.3. This section provides additional foundation for the Proposition and should be used in determining the overall intent. These findings contain certain factors that, if approved by the voters, would guide the interpretation of the Proposition. These six factors are as follows:

1. Prohibit residential uses in the area;
2. Ensure that this area is permanently protected and preserved for open space uses;
3. Allow the farming operations in the area such as the Strawberry Fields and flower growing areas to continue;
4. Enhance the existing protections of the Flower Fields;
5. Provide for the protection of environmental resources in the area including compliance with the City's environmental resources in the area including compliance with the City's Habitat Management Plan; and
6. Incorporate public trails, pedestrian accessibility, park uses, and other complementary and compatible public uses into the area. (Proposition "D", Section 2.3.)

These factors form the overall intentions of the Proposition. First, the Proposition prevents residential uses within the areas covered. This prohibition would necessarily extend to farm worker housing, which will have to be met at other locations. It permanently protects open space use. Farm operations are allowed and encouraged to be continued, however, in the long term, other open space uses are allowed.

C. Implementation

The effective date in the Proposition is found under Section 5.1. It references Election Code section 9217, which establishes the effective date at 10 days after the City Council certifies the result of the election. However, this effective date could be delayed if more than the requisite number of General Plan amendments in a calendar year permitted by the Government Code section 65358 have already been utilized. If the four General Plan amendments allowed to a general law city have already been approved by the City Council in calendar year 2006, the effective date of this Proposition would be pushed back to January 1, 2007. The Proposition also establishes that any project, whether discretionary or ministerial, not yet approved on the effective date of the measure must be subject to the rules contained in Proposition D.

In addition to the purpose in the Findings section under Section 2 of the Proposition, Section 5.2 requires that the Proposition be broadly construed in a manner that is consistent with Federal and State law. It is also required that the Proposition be broadly interpreted to achieve

the purposes and findings stated under Section 2. City Council is authorized to make any other amendments to the General Plan, zoning ordinance or other plans or policies to fully implement the Proposition. The City Council is not required to take any future legislative steps, but is authorized to do so by the Proposition.

Section 5.3 requires that the City initiate a comprehensive planning process to accomplish full implementation of the Proposition. The process must include procedures for determining "the most appropriate open-space, recreational and public uses for the area, should farming become no longer economically-viable in the area."

The Proposition also contains typical severability and conflicting ballot measure provisions typically found in land use measures. Under the severability clause (Section 5.4) if any portion is deemed invalid or unconstitutional by a court of law, the remaining portions of the Proposition shall continue in full force and effect.

Proposition D contains a competing ballot measure section (5.5). This section applies when this measure and a competing measure on the same subject matter both receive a majority approval. The terms of Section 5.5 of Proposition D require that the measure with the highest number of affirmative votes would be implemented in its entirety. No provision of the competing measure would be implemented even though the competing measure receives a majority vote.

This provision is meant to cover the situation in which both Propositions D and E receive a majority vote. This provision allowing for the highest vote to be implemented if two competing measures pass is consistent with California law. (*Concerned Citizens v. City of Carlsbad* (1988) 204 Cal. App.3d 937.)

In contrast, Proposition E contains language that allows provisions that do not conflict to go into effect when both measures receive a majority vote. This raises a dilemma as to whether provisions of one measure would go into effect even if the other measure received a higher number of votes. A review of both measures shows that they both cover the same subject matter in that each measure regulates open space and agricultural uses in the same area of the City but in different manners. Each covers approximately 307 acres. Proposition E covers an additional 100+ acres with the same types of restrictions applicable to lands that are common to both measures. The fact that properties have been left out of Proposition D demonstrates a conflict between the two measures. Proposition D leaves out certain properties, listed below, that potentially create more legal challenges for the City. It cannot be said that the omission of the lands from Proposition "D" found in Proposition "E" amounts to new and unanticipated subject matter that could allow for implementation of these provisions in Proposition "E", even if "E" does not receive as many votes as "D". Conversely, none of the provisions of "D" could be implemented using the language in "E" to allow partial implementation. Therefore, even properties that are not covered in both initiatives result in conflicting land use regulations between "D" and "E". It is the opinion of this office that both measures conflict to the extent that no provision of either measure would be effective if both were to receive a majority vote and

the terms and conditions of Proposition E regarding conflicting / competing ballot measures were to prevail.

II. Fiscal Impact

The City has retained RSG to study the fiscal impact analysis of the Proposition. This analysis is attached to this Report as Attachment 2. Overall, the Report focuses on those issues, which can be quantified given the time allotted to perform a comprehensive study of this magnitude.

III. Land Use Implications

Currently, the General Plan intends to have a natural urbanization process take place. As an example, the Land Use Element discusses the agricultural transition as follows:

5. Agriculture. Agriculture is an important resource in Carlsbad. The City's agricultural policies are intended to support agricultural activities while planning for the future transition of the land to more urban uses consistent with the policies of the General Plan and the Carlsbad Local Coastal Program (LCP).

The City's LCP protects agricultural lands from the premature conversion to more urban land uses by establishing programs which require mitigation for conversion of agricultural property to urban uses. It also has established methods to benefit agriculture in the community by providing financial assistance through cash programs.

While the City encourages agriculture, it recognizes the potential problems associated with agricultural land use. For example, to prevent the destruction of sensitive wild and archeological resources, clearing and grubbing of natural areas for agriculture requires a permit and environmental review. Also, the City encourages conservation techniques in agricultural activities to reduce soil erosion and water usage. (Carlsbad General Plan, Land Use Element, II (D)(5), Amended September 13, 2005.)

The Land Use Plans of the City, within the Coastal Zone, must be consistent with the Coastal Act. The Coastal Act includes a priority for visitor-serving uses close to the coast. (Public Resources Code Section 30255.) This requirement states as follows:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be

accommodated within reasonable proximity to the coastal-dependent uses they support.

Proposition D does not affect any lands designated for visitor-serving uses. Because the Proposition does not limit visitor-serving uses and continues land uses already approved in the City's LCP, this Proposition does not conflict with the priorities found under the Coastal Act or coastal-dependent developments.

A. Major Land Use Implications of Proposition "D"

The Proposition specifically regulates the agricultural lands in a manner that allows a transition to another Open Space use if the agricultural uses are no longer economically viable. The Special Planning considerations in the Proposition are as follows:

Special Planning Considerations-The Cannon Road Open Space, Farming and Public Use Corridor

Goal

Create a unique, community-oriented open space area along the Cannon Road corridor located immediately to the east of the Interstate 5 freeway including the existing Flower Fields and Strawberry Fields.

Objectives

To ensure that this area is permanently protected and preserved for open space uses.

To enhance the protection of the existing Flower Fields.

To allow the farming operations in the area such as the existing Strawberry Fields and flower growing areas to continue.

To provide for the protection and preservation of environmental resources in the area.

To increase public access and use to the area primarily through the incorporation of public trails and active and passive recreation.

Implementing Policies and Action Programs

Protect and preserve this area as an open space corridor. Permit only open space, farming and compatible public uses in the area. Permitted uses shall be as follows:

- Open Space
- Farming and other related agricultural support uses including flower and strawberry production
- Public trails
- Active and Passive park, recreation and similar public and private use facilities (except on the existing Flower Fields)

- **Electrical Transmission Facilities**

Prohibit residential development in the area.

Prohibit commercial and industrial-type uses in the area other than those normally associated with farming operations and open space uses.

Enhance public access and public use in the area by allowing compatible public trails, community gathering spaces and public and private, active and passive park and recreation uses.

Allow farming to continue in the area for as long as economically viable for the landowner.

Utilize all existing programs and land use protections and explore possible new mechanisms to keep the existing Flower Fields in production.

If determined to be necessary, the City shall amend the Zoning Ordinance and adopt a Cannon Road Open Space, Farming and Public Use Corridor Overlay Zone to apply to the area that would provide more detail on permitted uses and land use regulations applicable to the area.

The City shall initiate a public planning process with broad public participation to fully accomplish implementation of the goals, objectives and action programs listed above.

These provisions do not change the current uses of the properties covered by the Proposition. The major implications of the Proposition deal with the long-term land use plans for the parcels. The current General Plan allows for a transition of the land uses to non-agricultural, open space uses over time. Proposition "D" specifically prohibits any transition to residential, commercial or industrial uses. Any future commercial or industrial uses would be limited to those normally associated with farming operations and open space uses. Properties currently used for agriculture can be transitioned to Open Space uses if the agricultural use is no longer economically viable. Agricultural uses can no longer be transitioned to a non-Open Space Use if Proposition "D" is adopted.

B. Property Covered by Proposition "D"

The area affected by Proposition D contains approximately 307 acres and is shown on Attachment 3. The area generally consists of four separate properties as follows:

1. Property 1 (Assessor's Parcel No.211-022-21). This property is the site of the existing Flower Fields. It contains 53.4 acres and is located at the northeast corner of Palomar Airport Road and Paseo Del Norte south of Cannon Road. The property is part of the Carlsbad Ranch Specific Plan (SP 207) and is presently protected as Open Space for agricultural use through the conditions of approval of the Specific Plan. It is designated as Open Space (OS) in the General Plan, the Zoning Ordinance and the Mello II segment of the Local Coastal Program.

2. Property 2 (Assessor's Parcel No.211-023-11). This property contains 45.6 acres and is located on the southeast corner of Cannon Road and Car Country Drive. It is presently used for agriculture and is also part of the Carlsbad Ranch Specific Plan (Planning Area 8A). It is designated as Open Space (OS) in the Specific Plan, the General Plan, the Zoning Ordinance and the Local Coastal Program. The Carlsbad Ranch Specific Plan identifies the primary use of the property for golf. If not developed for golf, the Specific Plan allows consideration of other Open Space uses including agriculture and active and passive recreation uses.
3. Property 3 (Assessor's Parcel No.211-023-13). This property contains 26.45 acres and is located on the southeast corner of Cannon Road and Legoland Drive. Similar to Property 2, it is presently used for agriculture and is also part of the Carlsbad Ranch Specific Plan (Planning Area 8B). It is designated as Open Space (OS) in the Specific Plan, the General Plan, the Zoning Ordinance and the Local Coastal Program. The Carlsbad Ranch Specific Plan also identifies the primary use of this property for golf. If not developed for golf, the Specific Plan allows consideration of other Open Space uses including agriculture and active and passive recreation uses.
4. Property 4 (Assessor's Parcel Nos.211-010-5, 211-010-28 and 211-010-31). This property contains approximately 181.55 acres and is located on the north side of Cannon Road adjacent to the south shore of Agua Hedionda Lagoon and generally between Paseo Del Norte and Faraday Avenue. This property presently contains agricultural farming operations (the Strawberry Fields), electrical transmission lines and natural habitat areas proposed to be protected by the City's Habitat Management Plan. The City also presently leases a portion of this property (approximately 91 acres) for potential, future park use. This property is designated for Open Space (OS) in the General Plan and the Agua Hedionda Lagoon segment of the Local Coastal Program, however, except for a small 20 acre portion (Assessor's Parcel No.211-010-28) it is presently zoned Public Utility (PU) which allows uses such as electrical energy generation and transmission.

The 307 acres found in Proposition D excludes property found in Proposition E. Approximately 430 acres are covered by Proposition E, including additional land over and above Proposition D as follows:

- 48 acres of SDG&E property adjacent to I-5 (APN 211-010-24)
- 26.18 acres of SDG&E property (portion of APN 211-010-31) on south side of Cannon Road
- 2.63 acres of Agua Hedionda Lagoon Foundation Nature Center (APN 208-186-05)
- 49.22 acres of CA Department of Fish & Game property within Agua Hedionda Lagoon Preserve (portion of APN 208-020-44)
- .20 acres of City of Carlsbad property (portion of APN 212-010-15)
- 5.24 acres of Kelly Land Co. property (APNs 208-186-01 and -04)

The zoning and land use implications of this additional property were reported in the Elections Code section 9212 Report prepared for Proposition E. The inclusion of the additional property is also discussed above in the section discussing the approval of the two competing Measures.

C. Description and Purpose of Proposition

1. **Description and Purpose of Proposition.** The purpose of this Proposition is to ensure that the affected area, including the existing Flower Fields and Strawberry Fields, is permanently preserved for Open Space uses and that agricultural farming operations are allowed to continue in the area for as long as they are viable. The purpose is also to allow public use, access and recreation to occur in the area in a manner that will not adversely impact the other Open Space uses in the area including agriculture. The Proposition would do the following:
 - a. It would reaffirm and make permanent the existing Open Space (OS) designation of the area affected by the Proposition including the existing Flower Fields and Strawberry Fields. It would specifically prohibit residential or any other non-Open Space Uses and would rezone to Open Space (OS) all portions of the area not presently zoned Open Space. The Open Space designation and zoning could not be changed without a subsequent vote of the citizens to rescind the Proposition.
 - b. It would promote continued farming and agricultural uses in the area as long as these uses continue to be viable. When agricultural uses are no longer viable, only other Open Space Uses would be allowed.
 - c. It would designate the area in the General Plan for Special Planning Consideration as the "Cannon Road Open Space, Farming and Public Use Corridor" and provide special goals, objectives and implementing policies.

- d. It would support the enhancement of public accessibility in the area by permitting public trails, recreational uses and other similar public uses that are compatible with other Open Space uses in the area.
- e. It would require a comprehensive planning process, with broad citizen involvement, to determine appropriate and compatible Open Space uses for the area

This description and purpose section affirms that the priority of the proposition is to protect the properties covered by the measure as permanent open space uses and agricultural uses, to the extent the agricultural uses are economically viable. The area would be considered a special planning consideration designation within the General Plan. Implementation would include a comprehensive planning process that factors in citizen input, allowing the City Council to provide detail regarding future open space uses appropriate for the properties.

D. Consistency with Existing General Plan, Local Coastal Program Land Use Plan, and Zoning Designations

1. Consistency with the Existing General Plan

The Proposition proposes to amend the existing General Plan by making changes to the Land Use Element and the Open Space and Conservation Element. The major General Plan consistency and land use policy implications associated with the Proposition relates to its impact on agricultural and open space uses in the city.

The proposition would reaffirm and permanently lock into place the existing General Plan designation of Open Space (OS) on all the properties affected by the proposition. The proposition would include amendments to the existing text of the Land Use Element of the General Plan to ensure that the area is preserved for Open Space uses and that farming and agricultural uses are allowed to continue for as long as economically viable by establishing the area for Special Planning Consideration as the "Cannon Road Open Space, Farming and Public Use Corridor". The proposition contains special goals, objectives, implementing policies and action programs to ensure the continued use of the area for Open Space consistent with the existing land use designation of the General Plan. The proposition also amends the Land Use Element by adding a policy to strengthen the protection of the existing Flower Fields. The proposition reaffirms the existing land use policies contained in the General Plan to support and encourage agriculture in the city and in this area for as long as it remains economically viable. The proposition would, however, make agricultural uses a Category 1 Priority for future planning in the area. If, in the future, farming and agricultural uses are no longer economically viable, the proposition would only allow other, specified Open Space uses. The proposition is, therefore, consistent with the City's existing General Plan.

2. Consistency with Local Coastal Program and Coastal Act

The properties affected by the proposition are located in the Mello II (Properties 1, 2 and 3) and Agua Hedionda (Property 4) segments of the Local Coastal Program. The Local Coastal Program designates all of the properties as Open Space and the proposition reaffirms this designation and permanently locks this designation into place. The Agua Hedionda Land Use Plan designates Property 4 where the Strawberry Fields are located for Open Space and continued agricultural use in return for allowing a 48-acre parcel adjacent to the property and under the same ownership to be developed with tourist oriented commercial use. The proposition does not include this adjacent parcel and is, therefore consistent with the Agua Hedionda Land Use Plan. Because the proposition ensures that the affected area will be retained in Open Space, the proposition is consistent with the City's Local Coastal Program.

3. Zoning Consistency and Consistency with Carlsbad Ranch Specific Plan

The proposition proposes to rezone all the portions of the affected area not presently zoned Open Space (OS) to the Open Space Zone. The majority of Property 4 is presently zoned as Public Utility (PU) so by rezoning this property, the proposition would result in establishing consistency between the zoning and the General Plan and Local Coastal Program. The proposition would permanently lock-in the Open Space zoning. For the properties (Properties 1, 2 and 3) subject to the Carlsbad Ranch Specific Plan (SP 207), the proposition reaffirms the Open Space zoning designation of the Specific Plan and does not change the provisions, standards or permitted Open Space Uses of the Specific Plan. The proposition would also require a comprehensive planning process, with broad citizen input, to determine what Open Space uses presently allowed by the Open Space Zone and generally described in the proposition would be the most compatible and appropriate for the area.

Three of the properties subject to the Proposition are also part of the Carlsbad Ranch Specific Plan.

Assessor's Parcel No. 211-022-21 is part of the Carlsbad Ranch Specific Plan (SP 207) and is presently protected as Open Space for agricultural use through the conditions of approval of the Specific Plan. This parcel is designated as Open Space (OS) in the General Plan, the zoning ordinance, and the Mello II segment of the Local Coastal Program.

Assessor's Parcel No. 211-023-11 is designated as Open Space (OS) in the Specific Plan, the General Plan, the zoning ordinance and the Local Coastal Program. The Carlsbad Ranch Specific Plan identifies the primary use of the property for golf. If not developed for golf, the Specific Plan allows consideration of other Open Space uses including agriculture and active and passive recreation uses.

Assessor's Parcel No. 211-023-13 is designated as Open Space (OS) in the Specific Plan, the General Plan, the Zoning Ordinance and the Local Coastal Program. The Carlsbad Ranch Specific Plan also identifies the primary use of this property for golf. If not developed for golf, the Specific Plan allows consideration for other Open Space uses including agriculture and active and passive recreation uses.

The land use designations and changes made by this Proposition are therefore consistent with the Carlsbad Ranch Specific Plan. Proposition D allows for continued open space use on the parcels contained within the Carlsbad Ranch Specific Plan. The primary use for some of the parcels within the specific plan area are intended to be for golfing and related uses. Other open space uses include agriculture and recreation uses.

4. Consistency with the Habitat Management Plan

The City's Habitat Management Plan (HMP) designates some of the property affected by the Measure as proposed hard-line preserve area that must be conserved as natural habitat. The Proposition is consistent with the HMP in that the land will be retained in its natural state.

IV. Regional Housing Needs

Currently, the City of Carlsbad is not using any portion of the lands impacted by this Proposition to meet its fair share housing needs and the adoption of this Proposition would not change this. Regional fair share housing needs will need to be met from lands outside of the areas covered by this Proposition. There will be some indirect impacts in that farm labor housing will still be required due to the employment requirement of agricultural use. These farm labor housing needs will have to be met outside of the boundaries of the properties covered by this Proposition.

V. Infrastructure Issues

The attached report by RSG addresses these issues.

VI. Attraction and Retention of Business

The attached report by RSG addresses this issue.

VII. Impact on Vacant Parcels

Refer to Section III of this report.

VIII. Impact on Various Land Uses

Section III lists the impacts of this proposal on agricultural lands and open space. Traffic congestion will not be impacted in that the Proposition does not change current land uses but allows them to continue. The RSG report deals with the impact of the Proposition on existing business districts and developed areas designated for revitalization.

IX. Conclusion

This Proposition sets up the future plans for the properties followed by a public process to add further detail to the general policies spelled out in the Proposition. Agriculture is encouraged to be sustained on existing agricultural parcels for as long as economically viable. Other open space uses will be allowed if agriculture is no longer economically viable.

A planning process would be initiated which would further define the other open space uses in order to implement the General Plan. This could include additional land use policies and ordinances intended to implement the Proposition in a manner consistent with State and Federal law. This office sees no significant legal hurdles that would prevent this Proposition from being fully implemented.

JPL:kld

Attachment 1: Proposition D
Attachment 2: Fiscal Impact Report on Proposition D (RSG)
Attachment 3: Map of affected area

Attachment “1”

Preserve the Flower and Strawberry Fields and Save Carlsbad Taxpayers' Money

The People of the City of Carlsbad do hereby enact and ordain:

1. Section 1. TITLE

- 1.1 This measure shall be known and may be cited as **"Preserve the Flower and Strawberry Fields and Save Carlsbad Taxpayers' Money"**.

2. Section 2. PURPOSE, LOCATION AND FINDINGS

2.1 Purpose. The purpose of this measure is to ensure that the Flower Fields and Strawberry Fields area located along the Cannon Road corridor east of the Interstate 5 freeway is preserved in open space and that farming is allowed to continue as long as it is viable. The purpose is also to allow public use, access and community gathering places to occur in the area in a manner that will not adversely impact the unique open space and environmental resources located in the area. This measure is intended to create a sustainable area that balances social, economic and environmental values important to the community. This measure amends the General Plan which contains the vision for the future of the City and the Zoning Ordinance to designate the area for special planning consideration to ensure that the area is retained in open space, that farming is allowed to continue and that public uses and access are allowed in the area.

2.2 Location and Description of the Area Affected by Measure. The area affected by this measure is shown on Exhibit A provided herein. It contains approximately 307 acres of land located in the central portion of the City along Cannon Road east of the Interstate 5 freeway. The area presently consists primarily of open space and farming operations including the existing Flower Fields located south of Cannon Road and the area generally known as the Strawberry Fields located on the north side of Cannon Road adjacent to Interstate 5 and the south shore of the Agua Hedionda Lagoon. The area on the north side of Cannon Road also contains regionally-significant public utility uses including existing SDG&E electrical transmission lines. The City presently leases a portion of the Strawberry Fields area (approximately 91 acres and generally known as Hub Park) which was leased for potential future, public park uses. The most easterly end of the area on the north side of Cannon Road contains environmentally-sensitive, natural vegetation that is identified in the City's Habitat Management Plan as part of a proposed habitat preserve system. For purposes of this measure, the area shall herein be identified as "The Cannon Road Open Space, Farming and Public Use Corridor."

2.3 Findings. The People of the City of Carlsbad find and declare that the subject area affected by this measure is currently regulated by City policy and established land use documents including the City of Carlsbad General Plan, the City Zoning Ordinance, the Carlsbad Habitat Management Plan, the Agua Hedionda Land Use Plan, the Mello II Local Coastal Plan and the Carlsbad Ranch Specific Plan. The City also has a comprehensive Growth Management Plan that sets limits on the amount of residential development and that requires public facilities to be provided concurrent with growth. The People of the City of Carlsbad desire the General Plan and

the Zoning Ordinance be amended to (1) prohibit residential uses in the area; (2) ensure that this area is permanently protected and preserved for open space uses; (3) allow the farming operations in the area such as the Strawberry Fields and flower growing areas to continue; (4) enhance the existing protections of the Flower Fields; (5) provide for the protection of environmental resources in the area including compliance with the City's Habitat Management Plan; and (6) incorporate public trails, pedestrian accessibility, park uses, and other complementary and compatible public uses into the area.

3. Section 3. GENERAL PLAN AMENDMENTS

The Carlsbad General Plan is hereby amended as set forth in this Section.

3.1 The Land Use Element at page 27, Section II (D) is hereby amended to add a new Land Use Element Section II (D) (8) to read as follows:

8. The Cannon Road Open Space, Farming and Public Use Corridor

The area along the Cannon Road corridor east of the Interstate 5 freeway presently consist primarily of open space and existing farming operations including the Flower Fields located to the south of Cannon Road and the existing Strawberry Fields located to the north of Cannon Road. The open space areas on the north side of Cannon Road provide spectacular views of the Agua Hedionda Lagoon and contain environmentally-sensitive natural habitat areas that need to be permanently protected.

The existing Flower Fields and the Strawberry Fields as open space uses provide for productive use of portions of the area that enhance the cultural heritage and history of the City. Although the Flower Fields are already protected and restricted to agricultural use, the City shall utilize all existing programs and land use protections and explore other possible new mechanisms to keep the Flower Fields in production. The City shall also ensure that other farming uses such as the existing Strawberry Fields are allowed to continue as long as it is economically viable for the landowner to do so.

The area is recognized for its significant open space opportunities; however, the area lacks adequate public access and public use areas so that the community can enjoy the open space opportunities provided in this area to their fullest potential. An interconnecting public trail through the area preferably linking the south shore of Agua Hedionda Lagoon with the existing Flower Fields could greatly enhance public access in the area. In addition, park and recreation uses that allow public gathering spaces and are compatible with other open space uses could offer opportunities for more community use and enjoyment of the area.

Residential use is not appropriate for the area. Commercial and industrial-type uses other than those normally associated with farming operations are also not appropriate.

The Cannon Road Open Space, Farming and Public Use Corridor presents a unique opportunity for the City to create a sustainable, community-oriented open space area that balances social, economic and environmental values important to the community.

3.2 The Land Use Element at pages 37 and 38, Agriculture-C. Implementing Policies and Action Programs is hereby amended by deleting existing C.3 and replacing it with a new C.3 to read as follows:

C.3 The City shall utilize all existing programs and land use protections and explore possible new grant programs and other outside financial assistance to keep the existing Flower Fields in permanent farming and flower production.

3.3 The Land Use Element at page 40, Section III; Goals, Objectives and Implementing Policies and Action Programs, is hereby amended to add a new section entitled Special Planning Considerations-The Cannon Road Open Space, Farming and Public Use Corridor to provide as follows:

SPECIAL PLANNING CONSIDERATIONS-THE CANNON ROAD OPEN SPACE,
FARMING AND PUBLIC USE CORRIDOR

A. Goal

Create a unique, community-oriented open space area along the Cannon Road corridor located immediately to the east of the Interstate 5 freeway including the existing Flower Fields and Strawberry Fields.

B. Objectives

B.1 To ensure that this area is permanently protected and preserved for open space uses.

B.2 To enhance the protection of the existing Flower Fields.

B.3 To allow the farming operations in the area such as the existing Strawberry Fields and flower growing areas to continue.

B.4 To provide for the protection and preservation of environmental resources in the area in coordination with landowners.

B.5 To increase public access and use to the area primarily through the incorporation of compatible public trails and active and passive recreation.

C. Implementing Policies and Action Programs

C.1 Protect and preserve this area as an open space corridor. Permit only open space, farming and compatible public uses in the area. Permitted uses shall be as follows:

(1) Open Space

(2) Farming and other related agricultural support uses including flower and strawberry Production

(3) Public trails

(4) Active and Passive park, recreation and similar public and private use facilities (except on the existing Flower Fields)

(5) Electrical Transmission Facilities

C.2 Prohibit residential development in the area.

C.3 Prohibit commercial and industrial-type uses in the area other than those normally associated with farming operations and open space uses.

C.4 Enhance public access and public use in the area by allowing compatible public trails, community gathering spaces and public and private, active and passive park and recreation uses.

C.5 Allow farming to continue in the area for as long as economically viable for the landowner.

C.6 Utilize all existing programs and land use protections and explore possible new mechanisms to keep the existing Flower Fields in production.

C.7 If determined to be necessary, the City shall amend the Zoning Ordinance and adopt a Cannon Road Open Space, Farming and Public Use Corridor Overlay Zone to apply to the area that would provide more detail on permitted uses and land use regulations applicable to the area.

C.8 The City shall initiate a public planning process with broad public participation to fully accomplish implementation of the goals, objectives and action programs listed above.

3.4 The Open Space and Conservation Element at page 16, Section F. Citywide Open Space Plan, Category 2: Open Space for Managed Production of Resources, Forestry/Agriculture/Aquaculture (2a), is hereby amended by changing the wording of the first sentence to read as follows:

Forestry, agriculture and aquaculture are considered a category 5 citywide priority for future open space planning except that agricultural uses in the Cannon Road Open Space, Farming and Public Use Corridor shall be considered a category 1 priority.

4. Section 4. ZONING ORDINANCE AMENDMENTS

The Carlsbad Zoning Ordinance is hereby amended as set forth in this Section.

4.1 The official Zoning Map is amended to rezone the area as shown on Exhibit A provided herein and not presently zoned Open Space to the OS (Open Space) zone.

5. Section 5. IMPLEMENTATION

5.1 Effective Date. This measure shall become effective upon passage by the voters in accordance with Elections Code 9217. With respect to the General Plan Amendments contained in Section 3 of this measure, if the number of General Plan Amendments in the calendar year as permitted by California Government Code Section 65358 have already been utilized, the Amendments to the General Plan enacted by this measure shall be the first amendment and shall become effective on January 1 of the next year following passage. Upon the effective date of this measure, all entitlements (whether discretionary or ministerial) not yet issued or project approvals not yet approved, shall not be issued or approved unless they are consistent with all provisions of this measure.

5.2 Interpretation And Authority To Amend Other City Ordinances, Codes And Policies.

This measure shall be interpreted so as to be consistent with all federal and state laws. It shall also be broadly interpreted and construed in order to achieve the purposes and findings stated in the measure. The City is hereby authorized to make any other amendments to the General Plan, the Zoning Ordinance or any other plans, policies or ordinances necessary to fully implement the provisions of this measure and to ensure consistency between the provisions of this measure and all other elements of the General Plan, the Zoning Ordinance, and any other plans, policies or ordinances. If deemed necessary, the City is authorized to amend the Zoning Ordinance to create and adopt a Cannon Road Open Space, Farming and Public Use Corridor Overlay Zone which would then be applied to the area affected by this measure. The Overlay Zone could provide more detail on permitted uses and regulations applicable to the area.

5.3 Public Process To Comprehensively Implement Measure. Upon the passage of this measure, the City shall initiate a comprehensive planning process with broad public participation and input to accomplish full implementation of the measure. The process shall include determining the most appropriate open space, recreational and public uses for the area, should farming become no longer economically-viable in the area. The process shall result in achieving complete General Plan, Zoning and Local Coastal Program consistency so that the full intent of this measure can be implemented by the City.

5.4 Severability. If any section, sub-section, sentence, clause, phrase, part, or other portion of this measure, or application thereof, is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the remaining portions or provisions of this measure. It is hereby declared by the people voting for this measure that this measure, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, part, or portions, or the application thereof, are declared invalid or unconstitutional.

5.5 Conflicting Ballot Measures. This measure is inconsistent with and intended as an alternative to any other initiative(s) or measure(s) placed on the same ballot that addresses the same subject matter as this measure. In the event that this measure and another initiative(s) or measure(s) addressing the same subject matter as this measure, or any part thereof, is approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such initiative(s) or measure(s), then this measure shall prevail and control in its entirety and said other initiative(s) or measure(s) shall be rendered void and without any legal effect.

Exhibit List

Exhibit A - Map showing boundaries of Area affected by this measure

Attachment “2”



RSG

INTELLIGENT COMMUNITY DEVELOPMENT

ROSENOW SPEVACEK GROUP INC.

309 WEST 4TH STREET
SANTA ANA, CALIFORNIA
92701-4502

T 714 541 4585

F 714 541 1175

E INFO@WEBRSG.COM
WEBRSG.COM

September 17, 2006

Ron Ball, City Attorney
CITY OF CARLSBAD
1200 Carlsbad Village Drive
Carlsbad, CA 92008

FISCAL IMPACT REPORT ON PROPOSITION D ("PRESERVE THE FLOWER AND STRAWBERRY FIELDS AND SAVE CARLSBAD TAXPAYERS' MONEY" BALLOT MEASURE)

Dear Mr. Ball:

Pursuant to Section 9212(a) of the Elections Code, RSG has prepared this fiscal impact report to assess the initial and long-term financial implications of enactment of Proposition D (the "Preserve the Flower and Strawberry Fields and Carlsbad Taxpayers' Money" ballot measure). On August 8, 2006, the Carlsbad City Council approved the text of the ballot measure and authorized staff to place Proposition D on the November 2006 ballot.

As a City Council-sponsored ballot measure, the City is not legally obligated to prepare a fiscal impact report under the Elections Code. However, because such a report was prepared by RSG for a competing citizens' initiative (known as Proposition E, or the "Save the Strawberry and Flower Growing Fields Act of 2006"), the City Council requested preparation of this report as a means to provide the public with comparable information on the fiscal impacts of both propositions on the November 2006 ballot.

Consequently, this report addresses the fiscal impacts and other areas required for citizens initiatives pursuant to Section 9212(a) of the Elections Code. The areas addressed in this report include:

- o Fiscal impact (Elections Code Section 9212(a)(1));
- o Impact on funding for infrastructure of all types (Elections Code Section 9212(a)(4));
- o Impact on the community's ability to attract and retain business and employment (Elections Code Section 9212(a)(5)); and
- o Impact on existing business districts and developed areas designated for revitalization (Elections Code Section 9212(a)(7)).

REDEVELOPMENT PLANNING

REAL ESTATE ECONOMICS

HOUSING

FINANCING

REAL ESTATE ACQUISITION

ECONOMIC DEVELOPMENT

GOVERNMENT SERVICES

Other impacts associated with this Initiative are addressed in a supplemental report prepared by City staff.

FINDINGS

In general, the Ballot Measure would primarily amend the City of Carlsbad General Plan to provide further land use restrictions on approximately 307 acres of property along the Cannon Road corridor east of Interstate 5 ("Site"). The overriding purpose of the Ballot Measure is to only allow open space uses on the Site.

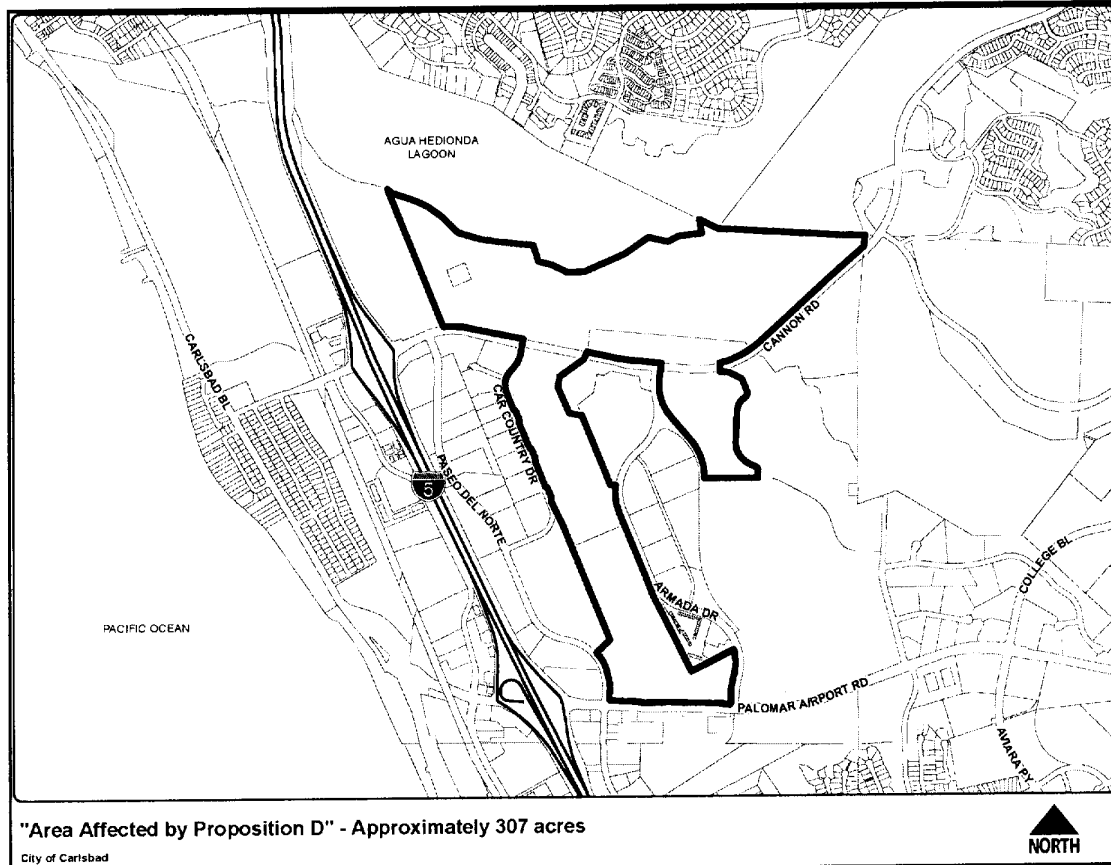
In sum, the implications of the Ballot Measure include:

- One time and implementation costs of approximately \$50,000 to implement a greater level of public participation in the planning process to determine the most appropriate open space uses for the site.
- No impact on the City's General Fund, City Redevelopment Agency, Carlsbad Tourism Business Improvement District or any other City of Carlsbad entities.
- No impact on funding for infrastructure of all types.
- No impact on the City's potential to attract and retain business and employment.

DESCRIPTION OF THE SITE

The Site consists of 6 parcels, all of which are largely undeveloped. Agricultural uses include strawberry production on portions of the largest parcel north of Cannon Road nearest Interstate 5 and flower production on the two parcels on the south side of Cannon Road and on the parcel adjacent to Palomar Airport Road. This latter parcel is the location of the Flower Fields, a 53.40-acre parcel deed-restricted for perpetual flower production.

A map of the Site follows:



A summary of existing uses and general plan designations by Assessor's Parcel Number (APN) is presented in the table below.

	Assessor's Parcel Number	Owner	Acres¹	Existing Use(s)	General Plan Designation
1	211-010-05	Winter, Ray & Constance	1.40	Growing Fields	Open Space
2	211-010-31	San Diego Gas & Electric	164.16 ²	Growing Fields, Undeveloped	Open Space
3	211-010-28	San Diego Gas & Electric	15.99	Growing Fields, Undeveloped	Open Space
4	211-023-11	Carlsbad Ranch Company LP	45.60	Growing Fields, Undeveloped	Open Space
5	211-023-13	Carlsbad Ranch Company LP	26.45	Growing Fields, Undeveloped	Open Space
6	211-022-21	C B Ranch Enterprises	53.40	Flower Fields	Open Space
	Total		307.00		

Permitted Uses

The Site falls under the jurisdiction of several local (City) and state (California Coastal Commission) planning designations and codes that regulate uses of the site. Presently, the

¹ Source: City of Carlsbad Geographic Information System

² Excludes approximately 26 acres of property on this parcel located south of Cannon Road

City's General Plan is consistent with the City's Local Coastal Program (LCP) prepared for the Coastal Commission.

All parcels are designated for Open Space use in the General Plan. Open Space may include land or water for the preservation of natural resources; the managed production of resources; outdoor recreation; aesthetic, cultural and educational purposes; and for public health and safety. In general, it has been anticipated that the Open Space uses on the Site would be used for agriculture, environmental protection, golf course use, and recreational uses.

Existing Easements and Other Constraints on Use

Two of the six parcels on the Site (Assessor's Parcel Numbers 211-010-31 and 211-022-21) have specific constraints that affect development and use. These constraints include the following:

- San Diego Gas and Electric (SDG&E) Transmission Lines;
- Coastal Commission Open Space Easement;
- Habitat Management Plan Area;
- HUB Park Site; and
- The Flower Fields.

In the interest of brevity, we have not prepared a description of these constraints. All of these constraints are currently permitted under the Open Space designation in the General Plan; and as described in the next section of this report, the Ballot Measure does not propose reducing the breadth of the Open Space designation such that these easements or constraints would be prohibited or inconsistent with the designation.

DESCRIPTION OF THE BALLOT MEASURE

According to Section 2.1 of the Ballot Measure, the purpose of the Ballot Measure is to ensure that the Site "is preserved in open space and that farming is allowed to continue as long as it is viable." To achieve this purpose, the Ballot Measure proposes several amendments to the Land Use Element of the City's General Plan that generally make Open Space a permanent use, but do this on parcels which are already designated for Open Space – so no "downzoning" is caused as a result of this Ballot Measure.

While the breadth of the Ballot Measure is limited to preservation of specific Open Space parcels, it does not alter the types of uses permitted within such a designation, and it explicitly prohibits residential uses. Because such uses today are not permitted in an Open Space designation, it is RSG's opinion that this change would not have a material effect on land values because any residential use would have required discretionary approval (not to mention significant public review) even without the Ballot Measure.

Another notable element of the Ballot Measure is its call for an expanded public participation process to implement the intent of the measure. In effect, the public process would address the "how" questions of the measure, for example, exploring how agricultural uses can remain in continued operation and what other open space uses would be appropriate if agricultural

operations are discontinued. This goes beyond the City's normal land use practices, in that the public would be directly engaged beyond the typical public land use process. City staff foresees that this public process may include public workshops and/or meetings to solicit input on a plan for the Ballot Measure.

Please refer to the full report for a more extensive review of the land use policy implications of the Ballot Measure.

FISCAL IMPACT OF THE BALLOT MEASURE

The fiscal impacts of the Ballot Measure are very limited in nature, due to the relatively subtle changes in land use policies that affect the measures of these impacts: land value, ultimate use potential, permitted uses, and infrastructure programs. In fact, it is RSG's opinion that none of these areas of land use fiscalization are affected by the Ballot Measure. This does not mean that the Ballot Measure does not make significant changes to land use policy; only that these changes, for the most part, do not have a fiscal impact on the City or property owners.

We have detailed our analysis below:

- Extraordinary planning process costs of approximately \$50,000: The sole material fiscal impact on the City is the cost of conducting the supplemental public participation process, beyond what the public would normally engage in during a typical General Plan amendment. In this case, the public would be brought into the discussion earlier than at the public hearing stage and be able to provide input on the means to implement the intent of the Ballot Measure. This effort would likely involve additional City staff time, as well as possibly special consultants to facilitate the discussion and provide technical assistance on the implementation plan. RSG believes this effort would cost approximately \$50,000.
- No further environmental review triggered by proposed General Plan amendments: It is unexpected that additional environmental review would be necessary to implement the Ballot Measure. A negative declaration was prepared by City staff in August 2006 in order to place the Ballot Measure on the November 2006 ballot, and the scope of the proposed General Plan amendments proposed by the Ballot Measure are not likely to trigger further environmental analysis.
- No acquisition costs anticipated: RSG does not anticipate that there is a material exposure the City would face if the Ballot Measure were passed. Property owners and business operators are expected to be able to operate their properties much in the same way as they do today, and do not appear to have an argument that any taking is caused by the limited scope of the General Plan amendments proposed by the Ballot Measure. Thus, acquisition of any portion of the Site is not necessary to implement the Ballot Measure.
- No reduction in other City facility or operating revenues anticipated: The Site was not anticipated to develop differently in any of the City's fee programs, so the City does not face the possibility of lower facility or infrastructure fee revenues as a result of the parcels remaining in Open Space. Further, because the Site was not anticipated to develop differently by the City's General Plan, it cannot be argued that the preservation of this use as proposed by the Ballot Measure would have any impact on the City's

General Fund because it was never anticipated to generate a material amount of revenues or expenditures.

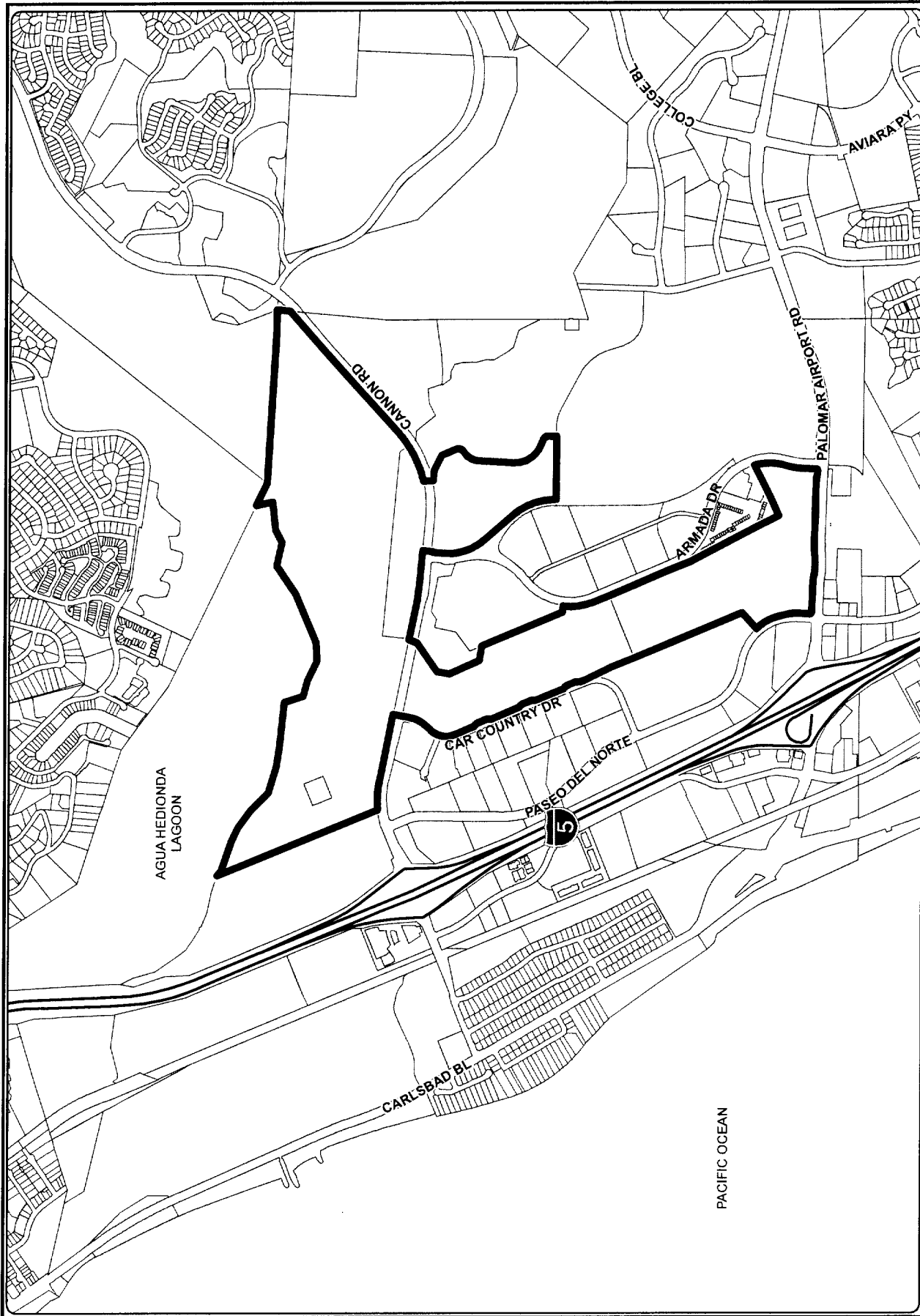
- No detrimental impact on jobs or business activity: The Site has a relatively low level of employment in place today, and was not projected in the General Plan currently to generate additional jobs in the future. RSG does not see any impact on employment or business activity as a result of the Ballot Measure's approval and implementation.
- No impact on Redevelopment Agency: None of the Site is located within the boundaries of the Carlsbad Redevelopment Agency, so the Ballot Measure would not impact the City's revitalization programs within its two existing redevelopment project areas.

We appreciate the opportunity to be of service to the City of Carlsbad, and are available to answer any questions you may have.

Sincerely,
ROSENOW SPEVACEK GROUP, INC.

Jim Simon, Principal

Attachment “3”



"Area Affected by Proposition D" - Approximately 307 acres

City of Carlsbad